

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MATTHEW McLOSKEY,

Plaintiff,

v.

Case No. 14-11305

Hon. Denise Page Hood

ACTING COMMISSIONER OF SOCIAL
SECURITY CAROLYN W. COLVIN,

Defendant.

ORDER ACCEPTING REPORT AND RECOMMENDATION
and
REMANDING ACTION

This matter is before the Court on Magistrate Judge David R. Grand's Report and Recommendation. **[Doc. No. 20, filed June 19, 2015]** To date, no objections have been filed to the R&R and the time to file such has passed.

Judicial review of the Commissioner's decision is limited in scope to determining whether the Commissioner employed the proper legal criteria in reaching his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge ("ALJ") must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court's review of an ALJ's decision is not a de novo review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at

397. The decision of the Commissioner must be upheld if supported by substantial evidence, even if the record might support a contrary decision or if the district court arrives at a different conclusion. *Smith v. Secretary of HHS*, 893 F.2d 106, 108 (6th Cir. 1984); *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusions for the proper reasons. The Court agrees with the Magistrate Judge that the ALJ failed to properly review and analyze certain evidence, including McLoskey's wife's third-party function and statements and other medical record which appears to contradict the ALJ's findings. The Magistrate Judge thoroughly addressed the evidence the ALJ should have properly reviewed finding that the ALJ failed to weigh this evidence against the evidence the ALJ relied on for her conclusions. The Court further agrees with the Magistrate Judge that the ALJ's conclusion that McLoskey is only mildly limited in activities of daily living, maintaining social functioning, and maintaining concentration, persistence or pace may not be supported by substantial evidence, in light of the evidence that was not considered by the ALJ.

The Court adopts the Magistrate Judge's recommendation that this matter be remanded for the ALJ to address all the evidence noted above and in the R&R and to specifically address whether McLoskey became disabled at any point during the relevant period. The Magistrate Judge reviewed the ALJ's findings and the record

in reaching his conclusion. The Court accepts the Magistrate Judge's Report and Recommendation as this Court's findings of fact and conclusions of law that this matter be remanded under Sentence Four of 42 U.S.C. § 405(g).

For the reasons set forth above,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge David R. Grand [Doc. No. 20, filed June 19, 2015] is **ACCEPTED** and **ADOPTED** as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment [Doc. No. 17, filed December 22, 2014] is **GRANTED IN PART** as more fully set forth above and in the R&R.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment [Doc. No. 19, filed January 12, 2015] is **DENIED**.

IT IS FURTHER ORDERED that the Commissioner's findings are **REVERSED** and this matter is **REMANDED** to the Commissioner under Sentence Four of 42 U.S.C. § 405(g) for further proceedings.

IT IS FURTHER ORDERED that this action is designated as **CLOSED** on the Court's docket.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: July 31, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 31, 2015, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager